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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/058,200
Filing Date: January 29, 2002
Appellant(s): HEITMANN ET AL.

MAILED
AUG 27 2004
GROUP 3700

Chad Anderson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/28/2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Claims 67-89 are allowed. Examiner has withdrawn the 112 1st paragraph rejection and claims 67-89 are deemed allowable.

Claims 90-96, 98-101, 104-109, 112, 113, 115-117 are rejected under 35 USC 102 or in the alternative 103.

Claims 97, 102, 103, 110, 111, 114 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 67-117 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

UK1212963

Reynolds

11-1970

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 90-96, 98-101, 104-109, 1 12, 1 13, 1 15-1 17 are rejected under 35 over Reynolds GB 121963. Reynolds shows a filter tube feeding element 14, at least one processing station which comprises a rotating drum 28 which rotates on a vertical axis (p. 3 left column lines 37+) and one conveyor 16 which delivers the tubes to at least one processing station. Reynolds shows one conveyor 16 to move the filter tubes cross-axially, with at least one processing station 22 arranged next to conveyor 16 to make a cutting operation. The tubes are subsequently conveyed in means 24 which transports the cut tubes which reads on a conveyor that rotates since the tubes get rotated at element 26 during the conveying path. The filtering material feeding station is read on station 30 and the insertion station is done at 30a via the actuation of sliding stop means 32 with bore 30b. The removal station is read on removing the products

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onto belt 92. Reynolds discloses that the tubular elements would be warmed (col 3 lines 125+) which reads on a heating station as claimed. Reynolds shows a lever element with bore 30a as well as a counter stop element 32 that stops the filtering material. Regarding the one conveyor and multiple processing stations, Reynolds shows conveyor 16 moving the filter tubes which are first stopped by mechanism 20 and then cut by cutting means 22. Since the filter tubes are stopped and cut, the examiner is interpreting the stopping mechanism to be one processing station and the cutting station to be another processing station.

Furthermore, means 28 is transporting the filter tubes to filler means 30 and subsequent processing stations such as cap inserting station 38. Since there are two filling hoppers as shown in figure 1, each filling hopper is read on a processing station which reads on multiple stations as claimed.

(11) *Response to Argument*

In response to applicants arguments regarding one conveyor as claimed, the examiner first notes that the claims do not recite that there is exclusively only one conveyor for the whole operation. The examiner is interpreting the claims in a broad context. The claims are given the broadest reasonable interpretation consistent with the specification. See *in re Morris*, 127 F.3d 1048 (Fed Cir 1997). Applicant is arguing that the processing stations have to be the ones identified in the specification and that a stopping station is not a processing station. The examiner disagrees with this contention and the examiner interprets multiple processing station to be any type of processing station including a stopping station as shown by Reynolds. Furthermore, as

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stated supra, Reynolds shows the various processing stations being claimed wherein one conveyor is feeding the tubes during the processing stations. The examiner interprets one conveyor to be one conveyor and not exclusively one conveyor for the whole operation.

Regarding claims 91-95, 96, 98, , 99, 100, 101, 112, 113 ,Reynolds does show the limitations claimed in the processing stations as stated in paragraph 10 supra.

Regarding claims 107-109, 115-117, Reynolds shows four hopper means 30 and lower hoppers not identified with numerals as shown in figure 1. These hoppers insert portions of filtering materials into a filter tube. Each hopper inserts a portion and therefore the combined hoppers insert two portions as claimed in a single operational step. The entire operation reads on a single step as claimed.


In conclusion, applicant has not limited the claims to read on only one exclusive conveyor for the whole operation that goes through multiple processing stations. There is no limitations in the claims that prohibit the use of one conveyor to be used with other conveyors. Therefore, the examiner maintains the rejection as set forth supra.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,


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August 26, 2004

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